

The Training and Certification of Alberta's Skilled Work Force

Discussion Paper



Career Development
and Employment
June 1990

MESSAGE FROM THE MINISTER

In January, 1990, I circulated a document entitled "Principles of Proposed Legislation Governing Apprenticeship and Occupational Training". That document outlined the major principles to be embodied in proposed new legislation. The transformation of those principles into legislation has required more substantial changes than originally were contemplated. For example, it became impossible to continue the existing four types of designation (voluntary certification, compulsory certification, compulsory apprenticeship with voluntary certification, and compulsory apprenticeship with compulsory certification) as indicated in the Principles document (see page 23 of the Discussion Paper). The designation combining compulsory apprenticeship with voluntary certification would be discontinued. However, the existing practices and procedures would not change on the day the proposed legislation comes into force. The complete transition would take several years (see page 38).

As well, some of the processes originally considered for inclusion in the proposed legislation (process for adjusting designations, process for hearing and dealing with complaints and for enforcing the compulsory provisions) would be contained in regulations to permit the flexibility required to respond to the training needs of industry (employers and workers), now and in the future.

As a result, introduction of the legislation, originally anticipated in the Spring of 1990, was delayed to allow sufficient time for detailed consultation with industry and others interested in, or affected by, the training of Alberta's labour force.

The proposed legislation provides a framework with sufficient flexibility to accommodate both present and future training needs of Albertans. It includes changes recommended as a

result of previous public input and changes which would enable Government to fulfill its role in providing leadership in the development of Alberta's human resources. It is consistent with the Labour Market Strategy for the 1990s recently developed in the Department of Career Development and Employment and now beginning to redirect the way in which the Department operates. The proposed legislation also is consistent with the Department's overriding mission: to help increase the skill level of Alberta's work force so that it can meet the demands of global competition.

Your response to the proposed legislation is encouraged. Please read the Important Notice (on the next page) for the process for responding.

The proposed legislation will be reviewed and revised in response to the comments received. I hope to put before the Legislative Assembly in the Spring of 1991 a piece of legislation which would provide a clear, comprehensive and contemporary legislative framework for the training and certification of Alberta's skilled work force.

If you are aware of anyone who has not received a copy of this Discussion Paper, please feel free to provide them with a copy.

A handwritten signature in dark ink, appearing to read 'Norm A. Weiss', with a stylized, flowing script.

Norm A. Weiss
Minister of Career Development
and Employment
MLA, Fort McMurray

IMPORTANT NOTICE

WRITTEN RESPONSES

Written responses to this discussion paper should be forwarded to the following address before **October 15, 1990**.

Alberta Career Development and Employment
Office of the Assistant Deputy Minister
Policy and Program Development Division
9th Floor, CityCentre
10155 - 102 Street
Edmonton, Alberta
T5J 4L5

Attention: Legislation

FAX 422-0408

MORE INFORMATION:

If you wish further information please call your local RITE operator (toll free line) and ask for Susan Johnston, 422-4489.

**DISCUSSION PAPER
ON
PROPOSED LEGISLATION
GOVERNING THE TRAINING AND CERTIFICATION
OF ALBERTA'S SKILLED WORK FORCE**

(Apprenticeship and Occupational Training)

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INTRODUCTION

THE IMPACT OF CHANGES

Six major trends promise to transform the nature of work and the work force as Alberta heads into the 21st century: globalization; the economy's shift from resources to services; seasonal and cyclical shifts in Alberta's primary industries; changing demographics; a growing concern about workplace fairness; and a concern about the environment. These trends are combining to generate a demand for a highly skilled, well-educated and adaptable work force.

The competitive position of Alberta in the world economy directly affects the standard of living enjoyed by Albertans. In the past, strong prices for basic commodities resulted in a high standard of living. However, sluggish commodity prices and increasing global competition mean that the importance of natural resources to our economy has been reduced.

In a global economy increasingly based on knowledge and information, human resources become the driving force behind competitiveness. The new imperative is for a work force and an economy based on excellence, flexibility and adaptability.

THE PARTNERSHIP

As one of the departments of Government responsible for providing leadership in the development of Alberta's human resources, Career Development and Employment must work in partnership with individuals, employers, employee and employer associations and other Government departments in meeting the challenges of a rapidly changing work world. The overriding mission of Career Development and Employment is to help increase the skill level of Alberta's work force so that it can meet the demands of global competition.

Role of Government

In addition to helping to maintain and enhance Alberta's economic competitiveness in the global market place, the Government of Alberta is responsible for:

- * supporting a social and economic environment in which Alberta continues to grow and prosper;
- * fostering individual self-reliance by providing positive opportunities for individuals to achieve their personal goals, to take responsibility for their actions, and to be contributing and caring members of Alberta society;
- * providing all Albertans with equal access to Government programs.

Role of Industry

The role of industry (employers and workers) in the partnership is equally important. Industry must

- * identify the need for skills;
- * participate in training;
- * provide quality on-the-job training;
- * work in partnership with Government to develop and administer training initiatives;
- * provide all Albertans with equal access to employment and training.

Role of the Individual

Individuals have a vested interest in Alberta's social and economic environment. The role of apprentices, trainees and employees is to participate, to the extent of their ability, in available training or retraining opportunities.

BACKGROUND

Previous Legislation

Prior to 1976 there were 3 Acts in Alberta which dealt specifically with the training and certification of skilled tradespersons: The Apprenticeship Act (1944); The Tradesmen's Qualification Act (1936); and The Welding Act (1941). In 1976, training and certification legislation was consolidated in the Manpower Development Act. In 1985, the Apprenticeship, Training and Certification Act ("Bill 35") was given Royal Assent but not brought into force.

Apprenticeship and Industry Training Review Committee

In 1987, the Minister of Career Development and Employment established the Apprenticeship and Industry Training Review Committee to examine the current state of training and certification of the skilled work force in Alberta and to identify needs and directions for the future. The public participated through written submissions and oral presentations at public meetings throughout the Province.

Advisory Panel

The Review Committee was assisted by an Advisory Panel which reviewed the recommendations of the Review Committee and reported directly to the Minister. Reports of both committees were submitted to the Minister and released to the public in November, 1988.

Proposed Legislation

The proposed legislation includes changes recommended as a result of previous public input and changes which would enable the Government and its partners to fulfill their respective roles in the development of Alberta's human resources.

The proposed legislation would provide a framework with sufficient flexibility to accommodate both current and future training needs of Albertans.

The following outlines the content of the proposed legislation, how it relates to the existing Manpower Development Act and reasons for the proposed changes.

A draft of the proposed legislation is attached as Appendix "A". Appendix "B" contains answers to some of the questions which may arise respecting the effect of implementation of the proposed legislation.

DEFINITIONS

PURPOSE

At the beginning of the proposed legislation is a section defining some of the terms used in the proposed legislation. These definitions apply only to matters covered by the proposed legislation and do not extend beyond the proposed legislation. Definitions are provided only where it is necessary to do so. Any term that is adequately described by its dictionary definition is not defined. Where the meaning of a term is different from the dictionary meaning, it is defined (e.g. "apprentice").

Some terms have been defined to avoid the need for lengthy descriptions or explanations in the body of the proposed legislation (e.g. "officer"). Other terms have been defined so they can be used in an abbreviated form throughout the proposed legislation (e.g. "Board").

In some cases, substantive matters are included in the definitions. Substantive matters are express provisions or authority granted under the proposed legislation. "Work experience program" is an example of a definition containing substantive provisions.

Appeal

"Appeal" is defined in context of its use in Part Three (Appeals) of the proposed legislation.

Apprentice

The dictionary definition of "apprentice" has been narrowed to include only individuals who have entered into contracts of apprenticeship registered under the proposed legislation. It is similar to the definition in the Manpower Development Act except that the age restriction has been removed to provide for greater flexibility in administering the proposed legislation.

Apprenticeship Program	This describes the main features of the existing apprenticeship program which would be continued. An apprenticeship program exists, and would continue to exist, only in a designated trade. An apprenticeship program includes supervised work experience and classroom technical training. More significantly, the definition refers to a relationship between an apprentice and the apprentice's employer which is governed by a contract of apprenticeship registered under the proposed legislation. The term is defined to differentiate between an apprenticeship program and the other types of training or training programs referred to in the proposed legislation.
Board	This definition enables the use of an abbreviation when referring to the proposed "Alberta Industry Training and Certification Board".
Collective Agreement	The definition of "collective agreement" relates to sections 15 (multiple membership) and 30 (superseding of collective agreement).
Designated Occupation	This definition is linked to section 33 (designation of occupations). The term is used throughout the proposed legislation to refer to occupations designated under that section. The concept of designated occupations is new. It would enable the Government to respond to industry's training needs in a variety of ways.
Designated Trade	This definition is linked to sections 25, 26, 50 and 51 (designation of trades). The term is used throughout the proposed legislation to refer to trades designated under those sections.
Exemption	This definition is linked to section 20 (authority to make exemptions). The term is used throughout the

proposed legislation to refer to persons or work exempted from the application of the proposed legislation.

Minister

A member of Executive Council must be responsible for administering the proposed legislation. Under the current legislation this is the Minister of Career Development and Employment. Any other member of Executive Council could be charged with the responsibility either due to a change in the name of the Department, or due to a change in responsibilities.

Officer

The definition of "officer" supports the enforcement provisions outlined in Part Four (Enforcement of Act, Regulations and Orders). An officer could be an employee of the Government or a member of the private sector. The discussion of sections 19 (delegation of authority) and Part Four outlines the proposed application of this definition.

Occupational Certificate

"Occupational certificate" relates specifically to a certificate granted in respect of training in designated occupations.

Record

"Record" is broadly defined to extend the usual dictionary meaning. It relates to Part Four (Enforcement) of the proposed legislation and any inspections carried out to ensure compliance with the proposed legislation.

Student Work Training Program

This definition refers to students in high schools and post secondary institutions participating in programs designed to provide students with work experience.

This Act

"This Act" is defined to include both the proposed Act and regulations under the proposed Act. The proposed Act would provide the framework for the training and

certification of Alberta's skilled work force. Regulations under the proposed Act would provide the necessary detail. The Act and regulations would operate together, and this is reflected in the definition.

Trade
Certificate

"Trade certificate" relates specifically to a certificate granted in respect of training in designated trades. The references to Certificates of "Proficiency" and "Qualification" in the Manpower Development Act have been eliminated.

Trainee

The dictionary meaning of "trainee" has been narrowed for the purposes of the proposed legislation. Trainees are participants in training programs and work experience programs, both of which are discussed below. Neither work experience programs nor training programs would require a contract between a trainee and the trainee's employer.

Training
Program

This definition and the definition of "work experience program" below reflect the flexibility required to accommodate both current and future training needs. A training program under the proposed legislation would have to be registered, approved or otherwise recognized by the Board. Training programs would be programs in which a trainee acquired skill and knowledge in an occupation, a designated occupation or a designated trade. A trainee would not have to be employed to participate in a training program.

Work
Experience
Program

A "work experience program" would have to be registered, approved or otherwise recognized by the Board. These programs would involve work experience and training provided by or on behalf of a trainee's employer or by or on behalf of an employers' or employees' organization.

PART ONE

BOARD, COMMITTEES AND ADMINISTRATION

Sections 2 to 24

PURPOSE

Part One of the proposed legislation would provide for the appointment of the Alberta Industry Training and Certification Board, and Provincial and Local Trade Committees, and their composition and functions. These bodies would be representatives of industry, and would play an integral role in the administration of the proposed legislation.

The Partnership

The duties and responsibilities of the Board and the Committees set out in the proposed legislation reflect a proposed expansion of the role of industry (employers and workers) in the partnership with Government. The proposed legislation would clarify the relationship between industry's representatives and the Minister.

Part One also would provide for the administration of the proposed legislation including the appointment of an Executive Director, delegation of the Minister's authority and the authority to make exemptions from the provisions in Part Two of the proposed legislation.

BOARD

Membership

The Lieutenant Governor in Council would be required to appoint to the proposed Alberta Industry Training and Certification Board up to 12 people knowledgeable about the needs of the economy of Alberta for skilled workers, training in trades and occupations, and human resource development. The proposed legislation would make no other stipulation respecting membership or the composition of the Board. This would provide the Lieutenant Governor in Council with flexibility in appointing members who best meet the needs of the economy

at any particular time. The Manpower Development Act does not provide a maximum number of members for the Alberta Apprenticeship and Trade Certification Board, but requires an equal number of members and alternate members representing employers and employees as well as general public representation.

**Presiding
Officer**

The Lieutenant Governor in Council would be required to designate one of the members of the Board as the presiding officer and could also designate a member to act in the absence of the presiding officer. The Manpower Development Act requires that a chairman be appointed separately from the other members of the Board and makes no provision for a person to act if the chairman is unable to carry out the duties of chairman.

Voting

All members of the proposed new Board, including the presiding officer, would have the right to vote on matters before the Board. In the event of a tie, the presiding officer could cast a second tie-breaking vote. The Manpower Development Act gives only the members representing employers and employees the right to vote. The chairman votes only in the event of a tie.

**FUNCTIONS OF THE
BOARD**

The functions of the Board would be expanded under the proposed legislation. The proposed new mandate encompasses not only apprenticeship and certification, but also a broad scope of training programs in occupations and designated occupations as well as designated trades.

Advisory

As the representatives of industry, the Board would advise the Minister on a broad range of matters related to apprenticeship, training and certification; training

programs in general; the policies of the Government respecting the training and certification of persons in trades and occupations; and the needs of the economy for skilled workers.

**Appoint
Committees**

The Board would be responsible for the appointment of Provincial Trade Committees for each designated trade, and for monitoring the activities of those committees to ensure consistency throughout the Province. The Provincial Trade Committee would appoint Local Trade Committees. Under the current legislation the Board appoints Local Apprenticeship Committee members who, in turn, combine to form the Provincial Apprenticeship Committee.

**Make
Exemptions**

Under the proposed legislation, the Board would be authorized to make exemptions from the application of the proposed legislation. There is no similar provision in the Manpower Development Act. This responsibility would be given to the Board as the representatives of industry and would provide industry with the flexibility required to meet its needs.

**Ensure
Compliance**

The Board would be given a role in ensuring compliance with the proposed legislation. This role would place greater responsibility in the hands of industry. The Board's precise role would not be defined in the proposed legislation.

BOARD BUSINESS

Bylaws

The Board would be required to make bylaws, subject to the approval of the Minister, respecting the conduct of its business. This would assist the Board to carry out its increased responsibilities in a consistent manner.

Quorum

The proposed legislation provides that a majority of the members of the Board would constitute a quorum at meetings. At the present time, only voting members (employer and employee representatives) and the chairman are considered in determining quorum.

Annual Report

A new provision would require the Board to submit to the Minister an annual report summarizing its activities. The Minister, in turn, would forward a copy of the report to the Legislative Assembly. This requirement would make the Board publicly accountable for the exercise of its functions under the proposed legislation.

PROVINCIAL TRADE COMMITTEE

The proposed change in name from apprenticeship committees to trade committees addresses the fact that not all trades have apprenticeship programs. At the present time there are four trades (elevator constructor, projectionist, plasterer, and tool and die maker) in this category, and there may be more in the future.

Membership

The Board would be required to establish Provincial Trade Committees for each designated trade and to appoint to each Committee 8 to 20 persons knowledgeable about the trade. In addition to the members appointed by the Board, the Minister could appoint an employee of the Government as a member.

Presiding Officer

The Board would be required to designate one of the members of each Provincial Trade Committee as the presiding officer and could also designate a member to act in the absence of the presiding officer. The presiding officer could be the member who was the Government employee. Under the current legislation, a Government employee is a member and the chairman

Voting

of all Provincial Apprenticeship Committees. Under the proposed legislation, all members of each Provincial Trade Committee, including the presiding officer and the Government employee, would have the right to vote on matters before the Committee. In the event of a tie, the presiding officer could cast a second tie-breaking vote. Under the current legislation, only members representing employers and employees have the right to vote. The chairman votes only in the case of a tie vote.

FUNCTIONS OF PROVINCIAL TRADE COMMITTEE

The responsibilities of a Provincial Trade Committee would be increased as a reflection of industry's enhanced role under the proposed legislation.

Appoint Local Committees

Provincial Trade Committees would be responsible for the appointment of Local Trade Committees in the designated trade, and for monitoring the activities of those Committees. This would be a new responsibility which would help to clarify the relationship among the Committees, Board and Minister.

Make Recommendations

Provincial Trade Committees would make recommendations to the Board in respect of any matter concerning apprenticeship, training and certification. They also would make recommendations respecting designation and changes in the designation of trades and occupations. This new statutory provision would reflect the current practice in some designated trades. Provincial Trade Committees also would make recommendations to the Board respecting regulations under the proposed legislation, and exemptions from the proposed legislation. The proposed authority to make recommendations respecting trade regulations is not new. However, the Board

currently is not authorized to deal with those recommendations. The authority under the proposed legislation to make recommendations would cover all regulations made by the Board, not just trade specific regulations. As well, Provincial Trade Committees would make recommendations to the Board respecting training and certification standards, and courses and examinations for their trade. These would not be new responsibilities. The existing legislation provides for recommendations respecting training programs and certification requirements to be made to the Executive Director; in fact, they are made to the Board. Under the proposed legislation, the relationship of Provincial Trade Committees to the other bodies would be clarified and restricted to the Board and Local Trade Committees.

Accreditation

Under the Manpower Development Act, Provincial Apprenticeship Committees are responsible for developing and approving policies of accreditation. Under the proposed legislation, the Board would determine where this responsibility should lie, and would have the necessary regulation-making authority to assign that responsibility.

Ensure Compliance

Provincial Trade Committees would be responsible for advising the Board of instances of non-compliance with the proposed legislation. Subject to regulations made by the Board, Provincial Trade Committees would have a role in settling disagreements between apprentices or trainees and their employers, on matters arising out of the proposed legislation. At the present time, the authority to resolve disputes rests with the Executive Director, the Local Apprenticeship Committee and the Board.

Settle Disagreements

**BUSINESS OF
PROVINCIAL TRADE
COMMITTEES**

Bylaws

Provincial Trade Committees, with the approval of the Board, would be required to make bylaws respecting the conduct of their business. The bylaws would provide guidance to the members and would promote the consistency required to deal with their increased responsibilities. Meetings would be held in accordance with the bylaws. Unlike the Manpower Development Act, the proposed legislation would not prescribe the number of meetings.

Quorum

The proposed legislation provides that a majority of the members of a Provincial Trade Committee would constitute a quorum at Committee meetings. At the present time, only the chairman and the voting members (employer and employee representatives) are considered in determining quorum.

**LOCAL TRADE
COMMITTEE**

Established

Provincial Trade Committees would be required to establish Local Trade Committees when, in the opinion of the Provincial Trade Committee, there was enough activity in the trade in a particular area of the Province to justify a Local Trade Committee. The Board would be authorized to establish and appoint members to a Local Trade Committee if the Provincial Trade Committee failed to do so, and the Board felt it was appropriate.

Membership

Provincial Trade Committees would be required to appoint to each Local Trade Committee persons who not only were knowledgeable about the trade, but who also carried on work in the trade in that area of Alberta. This would ensure that the members of Local Trade Committees were familiar with their trade and any problems encountered in a local area. Provincial Trade Committee members could sit on Local Trade Committees if determined appropriate by the Provincial Trade Committee. As well, the Minister

could appoint an employee of the Government to a Local Trade Committee. Under the Manpower Development Act, Local Apprenticeship Committee members form the Provincial Apprenticeship Committees.

Presiding
Officer

The Provincial Trade Committee would be required to designate one member of each Local Trade Committee, other than the Government employee, as the presiding officer and could also designate a member to act in the absence of the presiding officer. The presiding officer could not be the member who was the Government employee. Under the current legislation, a Government employee is a member and chairman of all local committees. Under the proposed legislation, all members of each Local Trade Committee, including the presiding officer and the Government employee, would have the right to vote on matters before the Committee. In the event of a tie, the presiding officer could cast a second tie-breaking vote. Under the current legislation, only members representing employers and employees have the right to vote. The chairman votes only in the case of a tie vote.

voting

FUNCTIONS OF LOCAL
TRADE COMMITTEE

Industry at the local level would be expected to have a knowledge of local needs and problems, and through the Local Trade Committee, make these known to the Provincial Trade Committee and, through that Committee, to the Board and Minister. While a direct relationship between the Executive Director and a Local Trade Committee could be established, there would be no specific requirement for this relationship as there is under the current legislation.

Recommendations

The functions of a Local Trade Committee would be restricted to the trade for which it was appointed and would include making recommendations to the Provincial Trade Committee on any matter respecting apprenticeship, training and certification for the designated trade, and

**Ensure
Compliance**

recommendations respecting exemptions from the proposed legislation. As the local industry representatives of the trade, the Local Trade Committee would advise the Provincial Trade Committee of instances of non-compliance with the legislation. Local Trade Committees would continue to be involved in the settlement of disagreements between apprentices or trainees and their employers arising out of matters coming under the proposed legislation. Local Trade Committees also would monitor the training programs being provided in their trade (apprenticeship programs, work experience programs and training programs) and the progress of apprentices and trainees.

**Settle
Disagreements**

**Relationship
With Apprentices
and Trainees**

**BUSINESS OF
LOCAL TRADE
COMMITTEES**

Local Trade Committees, with the approval of the Provincial Trade Committee, would be required to make bylaws respecting the conduct of their business. The bylaws would provide guidance to the members and would promote the consistency required to deal with their increased responsibilities. Meetings would be held in accordance with the bylaws. Unlike the Manpower Development Act, the proposed legislation does not prescribe the number of meetings.

Bylaws

Quorum

The proposed legislation provides that a majority of the members of a Local Trade Committee would constitute a quorum at Committee meetings. At the present time, only the chairman and the voting members (employer and employee representatives) are considered in determining quorum.

OTHER PROVISIONS

Term of Office

Members of the Board, a Provincial Trade Committee and a Local Trade Committee could hold office for a term of up to three years and could be reappointed for a further

**Extenuating
Circumstances**

term. This maximum of two terms for Provincial Trade Committee and Local Trade Committee membership could be waived if, in the opinion of the Board (respecting Provincial Trade Committee appointments) and the Provincial Trade Committee (respecting Local Trade Committee appointments), it was required due to extenuating circumstances. This would ensure that there were always qualified people available to sit on the Committees as representatives of industry in a designated trade. No similar shortages of qualified Board members would exist, and therefore there would be no exception to the two term maximum for Board membership.

**Multiple
Membership**

The proposed legislation would provide that a person could not be a member of the Board and a Provincial Trade Committee, or a member of the Board and a Local Trade Committee, at the same time. There would be no similar prohibition against membership on both a Provincial Trade Committee and a Local Trade Committee, or against a member of the Board, a Local or a Provincial Trade Committee, sitting on an appeal board appointed under the proposed legislation.

**Prohibition re
appointment**

A new provision would prohibit the appointment of persons who represented either employees or employers in collective agreement negotiations as members of the Board or Provincial Trade Committees or Local Trade Committees. This would assist the Board and Committees to concentrate on training issues rather than labour relations issues. Existing provisions respecting residency and citizenship qualifications respecting Board membership would be removed to avoid potential conflict with the Charter of Rights and Freedoms.

Expenses

The proposed legislation would provide that, with the exception of Government employees, members of the Board,

Provincial Trade Committees and Local Trade Committees could be paid a fee and expenses for performance of their duties. Payment no longer would be mandatory and industry could, in the future, be asked to share this cost.

**Meetings by
telecommunication
facilities**

The proposed legislation would permit meetings of the Board, Provincial Trade Committees and Local Trade Committees to be conducted by conference telephone, or by other means of telecommunication. In light of recent advances in telecommunications technology, this would be seen as an efficient alternative to traditional meetings. As well, the proposed increased responsibilities of these bodies are expected to increase the number of meetings currently being held.

**EXECUTIVE
DIRECTOR**

The proposed legislation would authorize the appointment of an Executive Director and other employees to carry out the purposes of the legislation. The Executive Director, as a Government employee, would be responsible to the Minister and the Deputy Minister. However, the appointment would not be mandatory as it is under the Manpower Development Act. This change would provide the flexibility required to enable the administrative structure to adapt and respond to changing social and economic circumstances.

**DELEGATION
OF MINISTER'S
AUTHORITY**

The Minister would be authorized to delegate to an employee, the Board, or any Committee under the proposed legislation, or to any member of those bodies, any of the powers and duties given to the Minister under the proposed legislation. The only matter the Minister would not be able to delegate would be the Minister's authority to make regulations. This broad authority would enable the Minister to involve industry, through its participation on the Board and Committees, in the administration of the proposed legislation.

EXEMPTIONS

Section 23(c) of the Manpower Development Act permits the Executive Director to provide special authorization for a person to work in a designated trade without being an apprentice or a journeyman. That Act does not authorize exemptions from the provisions respecting compulsory certification, except for limited exemptions under section 46. The proposed legislation would permit employers to organize their work force according to their needs, while continuing to provide protection for the public and the skilled work force.

The Board would be authorized to make exemptions from the training and certification requirements of the proposed legislation. Local Trade Committees could make recommendations to Provincial Trade Committees respecting exemptions. In turn, Provincial Trade Committees could make recommendations to the Board. The Board could exempt a person or class of person from Part Two, any provision of Part Two or any regulation under Part Two; a person or class of persons from meeting any requirements or qualifications prescribed under Part Two or regulation under Part Two; and a particular task or work or a class of tasks or work from the operation of Part Two. Any exemption would be subject to the right of the Minister to set aside the decision of the Board and to substitute the Minister's own decision. Any decision respecting exemptions could be appealed under Part Three of the proposed legislation.

OTHER

**False
Statement**

**Disciplinary
Action**

Persons required to provide information under the proposed legislation would be prohibited from knowingly giving false information. Disciplinary action against a person merely for acting in accordance with the proposed legislation would be prohibited.

**INELIGIBILITY
FOR
DESIGNATION**

Under the proposed legislation, any occupation designated or eligible for designation under the Health Disciplines Act would be ineligible for designation as either a designated trade or a designated occupation. A similar provision exists in the Professional and Occupational Associations Registration Act. These provisions eliminate the possibility of an occupation being designated and governed under two Acts.

PART TWO

TRADES AND OCCUPATIONS

PURPOSE

Part Two of the proposed legislation would provide a comprehensive framework under which a variety of training initiatives could be offered.

The Manpower Development Act provides for the designation of trades, the provision of compulsory apprenticeship training and the operation of a certification program. Although training programs other than apprenticeship training may be recognized in a trade not designated for apprenticeship, this can be done only in compulsory certification ("proficiency") trades.

Variety of Training Initiatives

Under the proposed legislation, an occupation could be designated as either a designated trade or a designated occupation. In the designated trades, there would be provision for compulsory apprenticeship programs and for apprenticeship programs without compulsory participation. In both designated trades and designated occupations, there would be provision for work experience programs and training programs, and for the establishment or approval of other requirements for the granting of a certificate.

These provisions would provide the flexibility required to respond to the changing social and economic circumstances both within and outside Alberta while providing the necessary protection for the work force and the general public.

Division 1 relates to designated trades and Division 2 relates to designated occupations.

DIVISION 1

TRADES

Sections 25 to 31

EXISTING SITUATION

Under the Manpower Development Act, there are essentially two categories of trade designations: voluntary certification (that is, certification is not required to work in the trade) and compulsory certification (certification is required to work in the trade). Under each of these categories trades may, or may not, be designated for apprenticeship. However, participation in apprenticeship is compulsory in any trade designated for an apprenticeship program.

Discontinuation of Compulsory Apprenticeship with Voluntary Certification

Over the years, practices have developed which are inconsistent with the legislation. Although the legislation requires compulsory participation in apprenticeship, work experience obtained in contravention of the legislation has been, and is being, recognized for certification. Furthermore, the concept of voluntary certification is frequently misunderstood. For these reasons, the category of trade designation combining compulsory apprenticeship with voluntary certification would be discontinued under the proposed legislation.

Proposed Categories of Designation

The proposed legislation would address the current inconsistencies between legislation and practice and the confusion surrounding current trade designations by creating a temporary or transitional category of designation. This category, compulsory apprenticeship trades, outlined in Part Five, would assist the transition of those trades currently designated for apprenticeship training from the Manpower Development Act to the proposed legislation. At the end of a five year transitional period, all designated trades would be designated as either compulsory certification trades or optional certification trades.

COMPULSORY
CERTIFICATION
TRADES

Designation

The Lieutenant Governor in Council would be authorized to designate an occupation as a compulsory certification trade. This category would be similar to the existing category known as "Proficiency Trades" which are designated under the Manpower Development Act "in the interest of public protection or general safety". This criteria would be removed from the proposed legislation. Instead, to provide flexibility, the Minister would be authorized to make regulations respecting the criteria for the designation of trades.

If an occupation were designated as a compulsory certification trade, work in that trade would be restricted to persons fulfilling specific requirements. One of these requirements would be the holding of a trade certificate in the compulsory certification trade.

Eligibility for a
Trade Certificate

In the proposed compulsory certification trades, if there were an apprenticeship program in the trade, a trade certificate would be granted only on successful completion of that program (compulsory apprenticeship). If there were no apprenticeship program in the trade, a trade certificate would be granted on successful completion of a training program, a work experience program or by meeting other requirements established or approved by the Board.

Under the existing legislation, the eligibility criteria for a trade certificate in a compulsory certification trade ("Proficiency") is contained in the General Regulations. This regulation, combined with the specific trade regulations, allows a person who has not completed an apprenticeship program in a trade designated for apprenticeship, to write an examination for a Certificate of Proficiency. This would not be possible under the proposed legislation.

**Restrictions
on Work**

Work in a proposed compulsory certification trade would be restricted to persons holding a certificate in that trade; to apprentices in those trades with an apprenticeship program and, in trades without an apprenticeship program, to trainees in training programs or work experience programs, or to persons engaged in a program to meet other requirements approved by the Board; to students in student work training programs; or to persons who had been granted an exemption to work in the trade or who were performing a task or work that had been exempted.

**Work on Own
Property**

An otherwise unqualified person could perform work in a compulsory certification trade on property owned or controlled by that person, provided the property was not used for any business or commercial use other than farming operations.

Overlap

A person would be permitted to work in a compulsory certification trade if the work to be performed was work for which training was provided in another designated trade and the person doing the work either held a trade certificate in that other trade or was an apprentice or trainee who had completed the appropriate training.

These proposed provisions restricting work in a compulsory certification trade are similar to existing provisions in sections 23, 43 and 46 of the Manpower Development Act. However, these new provisions would be broader. The "overlap" provision would cover all designated trades, not just compulsory certification trades. As well, in response to requests from industry, the exemptions which could be made by the Board would be broader than those prescribed in section 46(1) of the Manpower Development Act.

False
Claims

Persons would be prohibited from falsely claiming to meet the necessary requirements to work in a compulsory certificate trade. Employers would be prohibited from employing a person in a compulsory certification trade if the employer knew or would reasonably be expected to know that the person was prohibited from performing the work in that trade.

OPTIONAL
CERTIFICATION
TRADES

Designation

The Lieutenant Governor in Council would be authorized to designate an occupation as an optional certification trade. This category would be similar to the existing category known as "Qualification Trades". The designation combining compulsory participation in apprenticeship with optional ("voluntary") certification would be discontinued.

If an occupation were designated as an optional certification trade, there would be no restrictions on work in that trade.

Eligibility
for a Trade
Certificate

In the proposed optional certification trades, a trade certificate would be granted on successful completion of an apprenticeship program, a training program, a work experience program, or by meeting other requirements established or approved by the Board. Participation in an apprenticeship program would be optional.

False
Claims

Certificate
Not Required
To Work

Persons would be prohibited from falsely claiming to have qualifications in the trade. However, a person would not have to be an apprentice or a trainee, or hold a trade certificate in the trade, in order to work in an optional certification trade.

REDESIGNATION AND PROCESS

The proposed legislation would state that the Lieutenant Governor in Council could change or rescind the designation of a designated trade. While the Manpower Development Act allows this by implication, the procedure for doing so is unclear. Under the proposed legislation, the Lieutenant Governor in Council would be authorized to prescribe a program of transition governing any changes in trade designation. This would provide flexibility not available under the Manpower Development Act to address the needs of all those affected by a change. The program of transition could be designed to meet the needs of specific trades.

REGULATIONS

Regulation May Supersede Collective Agreement

The Board would be authorized to order that a term of a regulation respecting designated trades that was more advantageous to an apprentice than a term of a collective agreement would supersede that term of the collective agreement. A similar provision exists in the Manpower Development Act. However, the Manpower Development Act explicitly provides for the regulation to supersede. Under the proposed legislation, the Board would be required to deal with each case individually.

Minister's Authority

The Minister would be authorized to make regulations on a broad range of public policy and other matters under the Minister's administration. This would include the process for designating trades, for establishing provisional committees prior to designation, and prescribing the powers of provisional committees. The Minister also would be authorized to make regulations respecting the process for designating trades and for allowing movement among categories of designated trades; the provision of courses, programs and training; and the making of exemptions.

**Board's
Authority**

The Board, with the approval of the Minister, would be authorized to make regulations on a wide range of trade related matters. These would include the prescription of tasks and activities coming within a designated trade, and recognition of apprenticeship programs, training programs, work experience programs and student work training programs.

As well, the Board would be able to make regulations governing eligibility requirements of apprentices and trainees and the granting of credit for previous training or experience; regulations prescribing standards of achievement, examinations, the technical content of apprenticeship programs, training programs and work experience programs; and regulations governing all matters respecting contractual obligations between apprentices and employers.

The Board would be authorized to make regulations respecting the recognition of training or courses by outside persons or organizations or other jurisdictions.

The proposed authority of the Board to make regulations would be similar to, but broader than, the Minister's current authority under the Manpower Development Act. The proposed regulation-making authority would be trade specific, but also would include the authority to make regulations which affected industry directly. An example of the latter would be the methods or procedures to be applied in the resolution of disagreements between apprentices or trainees and their employers arising out of matters coming under the proposed legislation.

DIVISION 2

OCCUPATIONS

Sections 32 to 34

WHY DESIGNATED OCCUPATIONS?

Division 2 would provide broad authority respecting occupational training. Occupations designated under this division could be occupations in those sectors of the economy experiencing expansion and growth, or other occupations with identified needs for additional training.

Depending on the needs of industry, it is anticipated that some designated occupations eventually could become designated trades, while others would remain as designated occupations. Some designated trades could move to the designated occupations category.

While in many respects designated occupations would resemble designated trades, the notable difference would be the wholly optional nature of the designated occupations and the absence of apprenticeship programs.

MINISTER'S GENERAL AUTHORITY

The Minister would be authorized to establish, organize, sponsor or recognize any program or service relating to occupational training.

DESIGNATED OCCUPATION

The Minister would be authorized to designate, by regulation, an occupation other than a designated trade, as a designated occupation. Certificates would not be required to work in designated occupations.

Designation

**Eligibility
For
Certificate**

If an occupational certificate were to be granted in a designated occupation, an occupational certificate would be granted on successful completion of a training program, a work experience program or by meeting other requirements established or approved by the Board.

**False
Claims
Certificate
Not Required
To Work**

Persons would be prohibited from falsely claiming to have an occupational certificate in a designated occupation. However, an occupational certificate would not be required to work in a designated occupation.

REGULATIONS

**Minister's
Authority**

The Minister would be authorized to make regulations on a broad range of public policy and other matters under the Minister's administration. The Minister would be authorized to make regulations providing for the process for designating occupations and for the establishment of provisional committees prior to the designation of an occupation, and prescribing the powers of those committees; and prescribing programs of transition for the designation, redesignation or rescinding of the designation of occupations.

**Board's
Authority**

The Board, with the approval of the Minister, would be authorized to make regulations on a wide range of occupation related matters, similar to those for designated trades, including the prescription of tasks and activities coming within a designated occupation.

PART THREE

APPEALS

Sections 35 to 41

PURPOSE

Part Three of the proposed legislation would provide a statutory appeal procedure to ensure that persons affected by certain decisions under the proposed legislation had access to a fair and impartial appeal.

Under the Manpower Development Act, the Board hears appeals from any decisions of the Executive Director. Under the proposed legislation, the Board either would be making the decision being appealed, or would be making recommendations respecting the decision being appealed. To ensure unbiased appeals, independent appeal boards would be appointed by the Minister.

RIGHT TO APPEAL

Who Can Appeal?

Appointment of Appeal Board

Decisions which would have a right to appeal under the proposed legislation would include the cancellation or suspension of a trade or occupational certificate; refusals to register, or the cancellation of the registration of, a contract of apprenticeship; and refusal of a request for, and the removal of, an exemption under the proposed legislation. Notice of appeal would have to be given within 30 days of receiving notification of the decision being appealed. Within 30 days of receiving notice of an appeal, the Minister would be required to appoint an appeal board consisting of a presiding officer and from two to four members. A majority of those members would have to be associated with and knowledgeable about the designated trade or designated occupation concerned. Members of appeal boards would be paid for their services. Appeal boards would be appointed on an ad hoc basis and would not be ongoing bodies.

**RULES
GOVERNING
APPEALS**

The proposed legislation sets out in detail the rules that would govern appeals. The rules would assist appeal boards in hearing appeals and would help to ensure fairness.

Notice Limits

The proposed legislation sets out the requirements of a notice of appeal and the notification that would have to be given to parties respecting appeals. Proposed time limits for hearing and deciding appeals are stipulated, to ensure that appeals would be dealt with promptly.

**Appellant's
Rights**

The rights of a person appealing a decision would include the right to be represented by legal counsel, attend hearings, give evidence and cross-examine witnesses.

**Powers of
Appeal Board**

The powers of an appeal board would include the authority to call and compel witnesses to give evidence, administer oaths and take evidence under oath. An appeal board could make interim orders pending an appeal hearing.

Records

Records of appeal hearings would have to be kept. The formal rules of evidence would not apply to appeals under the proposed legislation. Conduct money and witness fees would have to be paid in accordance with the Alberta Rules of Court.

**Appeal Without
Hearing**

Submissions could be made in writing, and an appeal could be conducted without a hearing, if the parties agree.

Regulation

An appeal board would not have authority to repeal, amend or vary any regulation under the proposed legislation.

**DECISION OF
APPEAL BOARD**

**Kinds of
Decisions**

An appeal board would be authorized to dismiss, vary or allow an appeal, and to attach terms and conditions to its orders. An appeal board could also award costs and would be required to provide all parties involved with a written decision.

**Question
Of Law**

An appeal board could seek the opinion of the Court of Queen's Bench on any question of law that arose in the course of proceedings.

**Appeal on
Question of
Law**

A person whose appeal had been heard by an appeal board could appeal the decision, on a question of law, to the Court of Queen's Bench. The Court could make any order that an appeal board could make.

PART FOUR

ENFORCEMENT OF ACT, REGULATIONS AND ORDERS

Sections 42 and 47

PURPOSE

The compulsory provisions in the proposed legislation would be binding on all to whom they apply. Non-compliance could impose a threat on the public or an unfair advantage to certain employers.

The proposed legislation would allow employees of the Government to enforce the legislation through inspections, compliance orders and applications for court orders. However, the Minister could authorize the Board or a Committee under the proposed legislation, or any member of the Board or those Committees, to conduct some or all of the procedures that could be required to enforce the proposed legislation.

INSPECTIONS

The existing provisions for inspections would be enhanced to specify what an officer could do in conducting an inspection. The officer would have increased authority to conduct inspections and to gain cooperation. Inspections could be conducted of the premises and records of an employer, a person providing training or instruction, or the worksite.

The officer could make copies of records and make inquiries respecting records, and the employment, qualifications, training or instruction of persons.

An officer would not be permitted to enter a private residence without the resident's permission. An officer refused permission to enter a private residence or otherwise impeded in the inspection could apply to the Court of Queen's Bench for relief.

COMPLIANCE ORDER

An officer who believed the proposed legislation was not being complied with could impose a written order directing compliance. Although compliance orders currently are issued, the procedure for doing so would be set down in the proposed legislation.

COURT ORDER

In the event of non-compliance with the proposed legislation, a compliance order or an order of an appeal board, an officer (or a party to an appeal in the case of non-compliance with an appeal board order) could appeal to the Court of Queen's Bench for the necessary relief.

The instructions for making these applications, the notice requirements, and the kinds of orders the Court could make would be spelled out in the proposed legislation. Generally, the Court could direct compliance by ordering that any action constituting non-compliance cease, or by giving directions to ensure compliance. Orders could be subject to any terms or conditions the Court considered necessary, and costs could be awarded.

CANCELLATION OF CERTIFICATE

The Minister would be authorized to cancel or suspend the registration of a contract of apprenticeship, or any certificate that had been altered, obtained fraudulently, or used by someone other than the person who was a party to the contract or to whom the certificate had been granted. This authority currently exists with respect to trade certificates in the General Regulations under the Manpower Development Act while the Act itself provides for the termination of contracts of apprenticeship.

Fraudulent Use

Unacceptable Standards

On the recommendation of the Board, the Minister could cancel the registration of a contract of apprenticeship,

or cancel or suspend a certificate if, in the opinion of the Board, an acceptable standard of quality or skill in the practice of the designated trade or designated occupation was not being maintained. This authority currently exists in the General Regulations with respect to trade certificates under the Manpower Development Act.

OFFENCE

A person who contravened the proposed legislation would be guilty of an offence. The Provincial Offences Procedure Act, S.A. 1988, c.P-21.5 would govern the penalties for any offence.

PART FIVE

TRANSITIONAL AND COMMENCEMENT

Sections 48 to 51

PURPOSE

Part Five would provide for the smooth and orderly transition from the existing legislation to the proposed legislation. It would provide for recognition under the proposed legislation of bodies established and qualifications recognized under the Manpower Development Act. As well, it would provide for recognition under the proposed legislation of trades designated under the existing legislation.

TRANSITIONAL

Members of Board and Committees Continue As Members

Members of the Alberta Apprenticeship and Trade Certification Board, and of Provincial Apprenticeship Committees and Local Apprenticeship Committees under the Manpower Development Act, would continue as members of the Alberta Industry Training and Certification Board, and of the Provincial Trade Committees and Local Trade Committees respectively, until replaced or reappointed under the proposed legislation.

Contracts Continue

Contracts of apprenticeship in effect under the Manpower Development Act would continue in effect under the proposed legislation.

Trade Certificates Continue

Similarly, trade certificates in effect under the Manpower Development Act would continue in effect under the proposed legislation.

EXISTING TRADES

Trades currently designated under the Manpower Development Act would be redesignated under the proposed legislation.

A trade designated under Part 3, Division 2 of the Manpower Development Act (plasterer, for example) would be deemed to have been designated as an optional certification trade under the proposed legislation. A trade designated under Part 3, Division 3 of the Manpower Development Act (elevator constructor, for example) would be deemed to have been designated as a compulsory certification trade under the proposed legislation.

COMPULSORY APPRENTICESHIP TRADES

Trades designated under Part 3, Divisions 1 and 2 (Qualification) and Part 3, Divisions 1 and 3 (Proficiency) of the Manpower Development Act would be deemed to have been designated as compulsory apprenticeship trades.

Purpose of Designation

The proposed category of compulsory apprenticeship trades would be a transitional category designed to accommodate and facilitate the discontinuation of the category of designation combining compulsory apprenticeship with voluntary certification. The ability to obtain a trade certificate in a compulsory certification trade having a compulsory apprenticeship program without completing the apprenticeship program also would be discontinued. No new trades would be designated under this provision.

Transition

Local and Provincial Trade Committees for each trade designated under the category of compulsory apprenticeship trades would be encouraged to recommend redesignation of their trade under either the compulsory certification or optional certification category or as a designated occupation. If the designation of the trade was neither rescinded nor redesignated within the five year transition period, the designation as a compulsory apprenticeship trade would expire.

Work in a compulsory apprenticeship trade would be restricted to persons fulfilling specific requirements unless, in the opinion of the Board, a person had sufficient experience to be proficient in the trade. One of the requirements would be the holding of a trade certificate in the compulsory apprenticeship trade.

**Eligibility
for Trade
Certificate**

In the proposed compulsory apprenticeship trades, a trade certificate would be granted on successful completion of the apprenticeship program or by completing a sufficient number of years of acceptable work experience and successfully completing one or more examinations or by meeting other requirements established or approved by the Board.

These provisions reflect the existing provisions in the General Regulations and in each trade regulation respecting eligibility for a Certificate of Qualification or a Certificate of Proficiency and eligibility to apply for an examination for a Certificate.

**Restrictions
on Work**

Work in a compulsory apprenticeship trade would be restricted to persons holding a certificate in that trade; to apprentices; to students in student work training programs; to persons who had been granted an exemption to work in the trade or who were performing a task or work that had been exempted; and to otherwise unqualified persons, if, in the opinion of the Board, they had completed a sufficient number of years of acceptable work experience in the trade.

These provisions reflect the existing provisions contained in sections 23, 43 and 46 of the Manpower Development Act and the definition of journeyman in section 1(f)(ii) of the General Regulations. The provisions in the proposed legislation would be broader because the Board's authority to make exemptions would extend to the provisions respecting compulsory apprenticeship trades.

**False
Claims**

Persons would be prohibited from falsely claiming to meet the necessary requirements in a compulsory apprenticeship trade. Employers would be prohibited from employing a person in a compulsory apprenticeship trade if the employer knew or would reasonably be expected to know that the person was prohibited from performing the work in that trade.

APPENDIX "A"

**A PROPOSAL FOR AN
INDUSTRY TRAINING ACT**

A proposal for an
INDUSTRY TRAINING ACT

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) "appeal" means an appeal referred to in section 35;
- (b) "apprentice" means an individual who has entered into a contract of apprenticeship that is registered under this Act;
- (c) "apprenticeship program" means a program in a designated trade that is approved, registered or otherwise recognized by the Board and under which

(i) an apprentice

(A) performs work that is supervised by or on behalf of the apprentice's employer, and

(B) receives formal instruction and training,

and

(ii) the relationship between the apprentice and the apprentice's employer with respect to the program is governed by a contract of apprenticeship that is registered under this Act;

(d) "Board" means the Alberta Industry Training and Certification Board;

(e) "collective agreement" means a collective agreement as defined in the *Labour Relations Code*;

(f) "designated occupation" means an occupation designated under section 33 as a designated occupation;

(g) "designated trade" means an occupation designated as

(i) a compulsory certification trade under section 25 or pursuant to section 50,

(ii) an optional certification trade under section 26 or pursuant to section 50, or

(iii) a compulsory apprenticeship trade pursuant to section 51;

(h) "exemption" means an exemption granted under section 20;

(i) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(j) "officer" means any person authorized by the Minister to carry out inspections under Part 4;

(k) "occupational certificate" means, in respect of a designated occupation,

(i) a certificate that is granted under this Act to a person who has met the criteria established under this Act in order for a person to be granted that certificate, or

(ii) a document that is issued by another jurisdiction and is recognized under this Act as being the equivalent of an occupational certificate granted under this Act;

(l) "record" includes

- (i) any document, agreement, account, book, return, statement, report or other memorandum of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems to illustrate what the systems do and how they operate;
- (m) "student work training program" means a program
- (i) under which a student receives work experience and training in an occupation, a designated occupation or a designated trade,
 - (ii) that is offered to the student by or on behalf of
 - (A) a board as defined under the *School Act*,
 - (B) a university under the *Universities Act*,
 - (C) a college under the *Colleges Act*, or
 - (D) a technical institute under the *Technical Institutes Act*,
- and
- (iii) that is registered, approved or otherwise recognized by the Board;
- (n) "this Act" includes regulations made under this Act;
- (o) "trade certificate" means, in respect of a designated trade,
- (i) a certificate
 - (A) that is granted under this Act to a person who has met the criteria established under this Act in order for a person to be granted that certificate, or
 - (B) that is deemed to be a trade certificate under section 49(5),
- or
- (ii) a document that is issued by another jurisdiction and is recognized under this Act as being the equivalent of a trade certificate granted under this Act;
- (p) "trainee" means an individual participating in a training program or a work experience program under this Act;
- (q) "training program" means a course or program, other than an apprenticeship program, a work experience program or a student work training program,

- (i) under which a trainee acquires skill and knowledge in an occupation, a designated occupation or a designated trade, and
 - (ii) that is registered, approved or otherwise recognized by the Board;
- (r) "work experience program" means a program, other than an apprenticeship program or a student work training program,
- (i) under which a trainee receives work experience and training in an occupation, a designated occupation or a designated trade that is provided to the trainee by or on behalf of the trainee's employer or by or on behalf of an employers' or employees' organization, and
 - (ii) that is registered, approved or otherwise recognized by the Board.

PART 1

BOARD, COMMITTEES AND ADMINISTRATION

Alberta Industry Training and Certification Board

2(1) The Lieutenant Governor in Council shall appoint a board known as the "Alberta Industry Training and Certification Board" consisting of not more than 12 persons who, in the opinion of the Lieutenant Governor in Council, are knowledgeable with respect to

- (a) the needs of the economy of Alberta for skilled and trained persons,
- (b) training in trades and occupations, and
- (c) human resource development.

(2) The Lieutenant Governor in Council

- (a) shall designate a member of the Board as the presiding officer of the Board, and
- (b) may designate one or more members of the Board to act in the place of the presiding officer when the presiding officer is absent or is otherwise unable to carry out the duties of the presiding officer.

(3) Notwithstanding that the presiding officer has cast a vote on a matter before the Board, the presiding officer may, in the case of a tie vote, cast a tie breaking vote.

Functions of the Board

3 The functions of the Board are

- (a) to advise the Minister in respect of

- (i) the needs of the economy of Alberta for skilled and trained persons,
 - (ii) the policies of the Government respecting the training and certification of persons in trades and occupations,
 - (iii) programs respecting the training of persons in trades and occupations that are carried out by the Government, other governments, industry, institutions and employee or employer organizations,
 - (iv) any matter pertaining to apprenticeship, training and certification, and
 - (v) matters referred to the Board by the Minister;
- (b) to make recommendations to the Minister respecting the designation, redesignation or the rescinding of the designation of trades and occupations;
 - (c) to make regulations under sections 31(2) and 34(2);
 - (d) to appoint members to provincial trade committees;
 - (e) to monitor the activities of provincial trade committees;
 - (f) to make exemptions under section 20;
 - (g) to ensure that persons are complying with this Act.

Conduct of business of Board

4(1) The Board, with the approval of the Minister, shall make by-laws respecting

- (a) the conduct of the business and affairs of the Board in carrying out its duties and exercising its powers, and
- (b) the calling and conducting of and the procedures governing meetings of the Board.

(2) A quorum at a meeting of the Board is a majority of members then holding office.

(3) The *Regulations Act* does not apply to the by-laws of the Board.

Annual report by Board

5(1) The Board shall, as soon as practicable after the end of the fiscal year of the Government, prepare a report summarizing the affairs of the Board for that fiscal year and forward the report to the Minister.

(2) When the Minister receives the report, the Minister shall lay a copy of it before the Assembly if it is then sitting, and if it is not then

sitting, within 15 days from the day of commencement of the next ensuing sitting of the Assembly.

Provincial trade committee

6(1) The Board shall, for each designated trade, establish a provincial trade committee and appoint to that committee not less than 8 or more than 20 persons who, in the opinion of the Board, are associated with and are knowledgeable in respect of the designated trade.

(2) Where a provincial trade committee is established, the Minister may appoint an employee of the Government as a member of that provincial trade committee.

(3) The Board, from among the members of a provincial trade committee,

(a) shall designate a member as the presiding officer of that committee, and

(b) may designate one or more members to act in the place of the presiding officer when the presiding officer is absent or is otherwise unable to carry out the duties of the presiding officer.

(4) Notwithstanding that the presiding officer has cast a vote on a matter before the provincial trade committee, the presiding officer may, in the case of a tie vote, cast a tie breaking vote.

Functions of a provincial trade committee

7 The functions of a provincial trade committee that is established for a designated trade are

(a) to make recommendations to the Board in respect of any matter concerning apprenticeship, training and certification;

(b) subject to section 9(1), to appoint members to local trade committees in the designated trade;

(c) to monitor the activities of the local trade committees in the designated trade;

(d) to make recommendations to the Board in respect of

(i) the designation, redesignation or the rescinding of the designation of trades and occupations,

(ii) regulations under this Act,

(iii) exemptions under this Act,

(iv) standards for training and certification in the designated trade, and

(v) courses and examinations related to the designated trade;

(e) to advise the Board on matters regarding non-compliance with this Act;

(f) subject to the regulations, to engage in the resolution of disagreements between apprentices or trainees and their employers arising out of matters coming under this Act.

Conduct of business by a provincial trade committee

8(1) A provincial trade committee, with the approval of the Board, shall make by-laws respecting

(a) the conduct of business and affairs of the committee in carrying out its duties and exercising its powers, and

(b) the calling and conducting of and the procedures governing meetings of the committee.

(2) A quorum at a meeting of a provincial trade committee is a majority of the members then holding office.

(3) The *Regulations Act* does not apply to the by-laws of a provincial trade committee.

Local trade committee

9(1) Where, in respect of its designated trade, a provincial trade committee is of the opinion that there is sufficient activity within an area of Alberta to warrant the establishment of a local trade committee for that area, the provincial trade committee shall establish, for that area, a local trade committee and appoint to that local trade committee persons who, in the opinion of the provincial trade committee,

(a) are associated with and are knowledgeable in respect of the designated trade, and

(b) carry on work in the designated trade in that area.

(2) Notwithstanding subsection (1), where

(a) a provincial trade committee has not, in respect of its designated trade, established a local trade committee for an area of Alberta, and

(b) the Board is of the opinion that, in respect of that designated trade, there is sufficient activity within that area of Alberta to warrant the establishment of a local trade committee for the area, the Board shall establish, for that area, a local trade committee and appoint to that local trade committee persons who, in the opinion of the Board,

(i) are associated with and are knowledgeable in respect of the designated trade, and

(ii) carry on work in the designated trade in that area.

(3) Where a local trade committee is established, the Minister may appoint an employee of the Government as a member of that local trade committee.

(4) The provincial trade committee, from among the members of a local trade committee,

(a) shall designate a member, other than an employee of the Government, as the presiding officer of that local trade committee, and

(b) may designate one or more members to act in the place of the presiding officer when the presiding officer is absent or is otherwise unable to carry out the duties of the presiding officer.

(5) Notwithstanding that the presiding officer has cast a vote on a matter before the local trade committee, the presiding officer may, in the case of a tie vote, cast a tie breaking vote.

Functions of a local trade committee

10 The functions of a local trade committee that is established for a designated trade are, with respect to that designated trade,

(a) to make recommendations to the provincial trade committee in respect of any matter pertaining to apprenticeship, training and certification;

(b) to make recommendations to the provincial trade committee respecting exemptions under this Act;

(c) subject to the regulations, to engage in the resolution of disagreements between apprentices or trainees and their employers arising out of matters coming under this Act;

(d) to advise the provincial trade committee on matters regarding non-compliance with this Act;

(e) to monitor apprenticeship programs, work experience programs and training programs and the progress of apprentices or trainees.

Conduct of business by a local trade committee

11(1) A local trade committee shall, with the approval of the provincial trade committee for its designated trade, make by-laws respecting

(a) the conduct of business and affairs of the committee in carrying out its duties and exercising its powers, and

(b) the calling and conducting of and the procedures governing meetings of the committee.

(2) A quorum at a meeting of a local trade committee is a majority of the members then holding office.

(3) The *Regulations Act* does not apply to the by-laws of a local trade committee.

Term of office

12 A person who is appointed as a member of the Board, a provincial trade committee or a local trade committee

(a) holds office for a term not exceeding 3 years as prescribed in the appointment, and

(b) continues to hold office after the expiry of the person's appointment until the person is reappointed, the successor to the position is appointed or a period of 3 months has expired from the time of the expiry of the appointment, whichever is the earlier.

Further appointment

13(1) A person who is a member of the Board, a provincial trade committee or a local trade committee is eligible to be appointed to serve for one further term of office as a member of the Board, the provincial trade committee or the local trade committee, as the case may be, but not for any further term of office in that position.

(2) Notwithstanding subsection (1), where, in the opinion of the Board extenuating circumstances exist, the Board may appoint a person to a provincial trade committee when that person would otherwise be ineligible to be appointed by virtue of subsection (1).

(3) Notwithstanding subsection (1), where, in the opinion of a provincial trade committee extenuating circumstances exist, a provincial trade committee may appoint a person to a local trade committee when that person would otherwise be ineligible to be appointed by virtue of subsection (1).

Multiple membership prohibited

14 A person is not eligible to be at the same time a member of both the Board and a provincial trade committee or a local trade committee.

Prohibition re appointment

15 A person is not eligible to be appointed as or, on being appointed, to continue as a member of the Board, a provincial trade committee or a local trade committee if that person represents or is normally engaged in representing

(a) an employer or a group of employers, or

(b) a group of employees,

in negotiations of collective agreements for that employer, group of employers or group of employees.

Expenses, etc.

16 Persons, other than employees of the Government, who are members of the Board, a provincial trade committee or a local trade committee, may be paid

(a) remuneration for the performance of their duties as members, and

(b) travelling and living expenses necessarily incurred in the performance of their duties as members,

at a rate prescribed by the Lieutenant Governor in Council.

Meetings by telecommunication facilities

17 The Board, a provincial trade committee or a local trade committee, as the case may be, may conduct meetings of the Board or the committee by means of telecommunication or other electronic facilities if those facilities permit all persons participating in the meeting to communicate with each other during the course of the meeting.

Executive Director and staff

18(1) In accordance with the *Public Service Act*, there may be appointed an Executive Director and other employees to carry out the purposes of this Act.

(2) The duties of the Executive Director are

(a) to advise the Minister on matters coming under this Act;

(b) subject to the directions of the Minister, to assist and advise the Board in the carrying out of its duties and activities;

(c) to carry out responsibilities assigned to that person by the Minister.

Delegation of authority, etc.

19(1) Other than the power to make regulations, the Minister may authorize

(a) an employee of the Government who is under the administration of the Minister, or

(b) the Board, a committee appointed under this Act or any member of the Board or of a committee appointed under this Act,

to do any act or thing that the Minister is required or permitted to do under this Act.

(2) An authorization given under subsection (1) may be

(a) general or applicable to a particular case, and

(b) conditional or unconditional.

(3) The Minister may authorize persons to carry out inspections under Part 4.

Exemptions

20(1) The Board may exempt

(a) a person or a class of persons from Part 2, any provision of that Part or any regulation made under that Part,

(b) a person or a class of persons from meeting any one or more of the requirements or qualifications prescribed under Part 2 or any regulation made under that Part, or

(c) a particular task or work or a class of task or work from the operation of Part 2 or any provision of that Part or any regulation made under that Part.

(2) Where the Board grants or refuses to grant an exemption under this Act, the Minister may

(a) vary the decision of the Board, or

(b) set aside the decision of the Board and substitute the Minister's own decision for that of the Board and grant or refuse to grant the exemption.

False statement

21 Where a person provides information under this Act, that person shall not provide information that the person knows, or would reasonably be expected to know, to be false.

Disciplinary action prohibited

22 No person shall dismiss or take any other disciplinary action against another person by reason of that other person acting in accordance with this Act or an order made under this Act.

Service of documents

23 In addition to any method of service permitted by law, any notice, order or document respecting matters coming under this Act may be serviced

(a) by personal service,

(b) by registered mail sent to the latest address of the person on whom service is to be effected,

(c) in the case of service by an employer on the employer's employee, by registered mail sent to the latest address of the person

on whom service is to be effected as shown on the records of the employer, or

(d) in the case of service on a person by the Minister, the Board, a provincial trade committee, a local trade committee or an appeal board, by registered mail sent to the latest address of the person on whom service is to be effected as shown on the records of the Minister.

Ineligibility for designation

24 An occupation is not eligible to be designated under this Act as a designated trade or a designated occupation if that occupation is a health discipline designated or eligible to be designated under the *Health Disciplines Act*.

PART 2

TRADES AND OCCUPATIONS

Division 1 Trades

Compulsory certification trade

25(1) The Lieutenant Governor in Council may by regulation designate an occupation as a compulsory certification trade.

(2) A person may, subject to the regulations, be granted a trade certificate in a compulsory certification trade,

(a) in the case where there is an apprenticeship program in that trade, by successfully completing the apprenticeship program, or

(b) in the case where there is not an apprenticeship program in the trade, by successfully

(i) completing a training program or a work experience program in the trade, or

(ii) meeting other requirements that may be established or approved by the Board.

(3) A person shall not work in a compulsory certification trade for which there is an apprenticeship program unless that person

(a) holds a trade certificate in the trade,

(b) has filed an application under this Act to participate in the apprenticeship program and that application is subsisting,

(c) is an apprentice in the apprenticeship program,

(d) is a student in a student work training program in the trade,

(e) is granted an exemption under section 20 under which the person is permitted to work in the trade, or

(f) is performing a task or work that is exempted under section 20.

(4) A person shall not work in a compulsory certification trade for which there is not an apprenticeship program unless that person

(a) holds a trade certificate in the trade,

(b) is a trainee in a training program or work experience program in the trade,

(c) is engaged in a program to meet the requirements referred to in subsection (2)(b)(ii),

(d) is a student in a student work training program in the trade,

(e) is granted an exemption under section 20 under which the person is permitted to work in the trade, or

(f) is performing a task or work that is exempted under section 20.

(5) Where a person is prohibited under subsection (3) or (4) from working in a compulsory certification trade, that person may, notwithstanding subsection (3) or (4), work in that compulsory certification trade

(a) if

(i) the work that the person is to perform is a task for which training is provided in another designated trade, and

(ii) the person who is to perform the task

(A) holds a trade certificate in that other designated trade, or

(B) is an apprentice or trainee in that other designated trade and has received training with respect to that task,

(b) if the work

(i) is carried out by the person on property that the person owns or over which the person has possession or control, and

(ii) is not for business or commercial purposes,

or

(c) if the work is carried out in respect of bona fide farming operations and the person carrying out the work is the farmer or another person engaged in those farming operations.

(6) A person shall not purport

(a) to be an apprentice in a compulsory certification trade unless that person is an apprentice in that trade;

(b) to be a trainee in a training program in a compulsory certification trade unless that person is a trainee in a training program in that trade;

(c) to be a trainee in a work experience program in a compulsory certification trade unless that person is a trainee in a work experience program in that trade;

(d) to hold a trade certificate in a compulsory certification trade unless that person holds a trade certificate in that trade;

(e) to be otherwise permitted to work in a compulsory certification trade unless that person is otherwise permitted to work in that trade under this Act.

(7) An employer shall not employ a person to perform work in a compulsory certification trade if the employer knows, or would reasonably be expected to know, that the person who is to perform that work is prohibited under this Act from performing the work in that trade.

Optional certification trade

26(1) The Lieutenant Governor in Council may by regulation designate an occupation as an optional certification trade.

(2) A person may, subject to the regulations, be granted a trade certificate in an optional certification trade,

(a) by successfully completing the apprenticeship program in that trade,

(b) by successfully completing a work experience program in that trade,

(c) by successfully completing a training program in that trade, or

(d) by successfully meeting other requirements that may be established or approved by the Board.

(3) A person shall not purport

(a) to be an apprentice in an optional certification trade unless that person is an apprentice in that trade;

(b) to be a trainee in a training program in an optional certification trade unless that person is a trainee in a training program in that trade;

(c) to be a trainee in a work experience program in an optional certification trade unless that person is a trainee in a work experience program in that trade;

(d) to hold a trade certificate in an optional certification trade unless that person holds a trade certificate in that trade.

(4) Nothing in this Act shall be construed so as to prohibit or restrict a person from working in an optional certification trade even though that person

(a) is not an apprentice or a trainee in that trade, or

(b) does not hold a trade certificate in that trade.

Redesignation of a trade

27 Where the Lieutenant Governor in Council designates an occupation as a designated trade, the Lieutenant Governor in Council may by regulation

(a) change the designation of the trade;

(b) rescind the designation of the trade.

Program of transition

28 When the Lieutenant Governor in Council designates an occupation as a designated trade, changes the designation of a trade or rescinds the designation of a trade, the Lieutenant Governor in Council may by regulation

(a) prescribe a program of transition governing

(i) the designation, redesignation or rescinding of the designation, and

(ii) the application of this Act with respect to

(A) apprentices, trainees and holders of trade or occupational certificates, and

(B) apprenticeship programs, work experience programs, student work training programs or training programs,

as the case may be, during the period of transition;

(b) prescribe provisional requirements governing

(i) apprentices, trainees and holders of trade or occupational certificates, and

(ii) apprenticeship programs, work experience programs, student work training programs or training programs,

as the case may be, during the period of transition.

Contract of apprenticeship

29 A person's program of apprenticeship does not commence until that person has entered into a contract of apprenticeship in accordance with the regulations.

Collective agreement superseded

30 If a term of a collective agreement that is applicable to an apprentice is, in the opinion of the Board, less advantageous to the apprentice than the regulations made under section 31 relating to the same subject matter, the Board may by order provide that the regulations supersede the collective agreement in respect of that subject matter.

Regulations re designated trades

31(1) The Minister may make regulations

- (a) establishing and governing a process under which interested persons may apply to have an occupation designated as a designated trade;
- (b) governing the applications and supporting material to be provided in making application to have an occupation designated as a designated trade;
- (c) governing the establishment and operation of provisional provincial trade committees and provisional local trade committees prior to the designation of an occupation as a designated trade;
- (d) prescribing the powers of a provisional provincial trade committee and a provisional local trade committee;
- (e) respecting the process for designating trades and the process for movement among categories of designated trades;
- (f) respecting the criteria for the designation of trades;
- (g) governing the administration of apprenticeship programs, work experience programs and training programs;
- (h) governing the administration of the certification process;
- (i) respecting the provision of courses, programs and training;
- (j) governing the granting of trade certificates;
- (k) respecting the making of exemptions under section 20;
- (l) respecting the payment of fees.

(2) The Board, with the approval of the Minister, may make regulations

- (a) prescribing the tasks and activities that come within a designated trade;

(b) governing the registration, approval or other recognition by the Board of apprenticeship programs, work experience programs, student work training programs and training programs;

(c) governing the registration of contracts of apprenticeship;

(d) governing the registration of trainees in work experience programs and training programs;

(e) governing eligibility requirements of apprentices and trainees;

(f) governing the granting of credit for previous training or experience;

(g) governing the documentation to be issued respecting advancement through, and the completion of, a program;

(h) prescribing standards of achievement;

(i) governing examinations;

(j) governing programs or courses for individuals enhancing their qualifications;

(k) prescribing the technical content of an apprenticeship program, work experience program or training program;

(l) governing the training to be given in respect of a designated trade;

(m) governing the contractual obligations between apprentices and their employers;

(n) prescribing the term of apprenticeship;

(o) prescribing the number of apprentices that may be employed by an employer;

(p) prescribing the qualifications that must be met by an employer who employs an apprentice;

(q) subject to the *Employment Standards Code*, fixing the hours of work and the rates of wages for apprentices and trainees;

(r) governing the methods or procedures to be applied in the resolution of disagreements between apprentices or trainees and their employers arising out of matters coming under this Act;

(s) governing, in respect of a designated trade, the recognition by the Board of training or courses given or accepted by or qualifications accepted by

(i) persons or organizations, other than the Minister or the Board, or

(ii) by another jurisdiction;

(t) respecting, with respect to a designated trade, whether training or courses given or accepted by or qualifications accepted by

(i) persons or organizations, other than the Minister or the Board, or

(ii) by another jurisdiction,

are the equivalent to training, courses or qualifications acceptable to or recognized by the Minister or the Board;

(u) providing, subject to any conditions that the Board may impose, that a document that

(i) is issued in another jurisdiction pursuant to legislation that is similar to this Act, and

(ii) if issued under this Act would be a trade certificate granted in a designated trade,

shall be recognized as a trade certificate issued under this Act in the designated trade;

(v) prescribing requirements for the purposes of sections 25(2)(b)(ii) and 26(2)(d).

Division 2 Occupations

Operation of occupational training programs

32 The Minister may establish, operate, sponsor or recognize any program or service relating to occupational training that the Minister considers necessary or desirable.

Designated occupation

33(1) The Minister may by regulation designate an occupation, other than one that is a designated trade, as a designated occupation.

(2) If occupational certificates are granted in respect of a designated occupation, a person may, subject to the regulations, be granted an occupational certificate in that trade

(a) by successfully completing a work experience program or a training program in that occupation, or

(b) by successfully meeting other requirements that may be established, approved or otherwise recognized by the Board.

(3) Where occupational certificates are granted in respect of a designated occupation, a person shall not purport to hold an occupational certificate

in the designated occupation unless that person holds an occupational certificate in that designated occupation.

(4) Nothing in this Act shall be construed so as to prohibit or restrict a person from performing work in a designated occupation even though that person does not hold an occupational certificate in respect of that occupation.

Regulations re occupations

34(1) The Minister may make regulations

(a) establishing and governing a process under which interested persons may apply to have an occupation designated as a designated occupation;

(b) governing the applications and supporting material to be provided in making application to have an occupation designated as a designated occupation;

(c) providing for the establishment and operation of committees in respect of designated occupations;

(d) prescribing the powers of committees referred to in clause (c);

(e) governing the establishment and operation of provisional committees in respect of an occupation prior to the designation of the occupation as a designated occupation;

(f) prescribing the powers of a provisional committee referred to in clause (e);

(g) respecting the process for designating occupations and the process for movement among categories of designated occupations;

(h) respecting the criteria for the designation of occupations;

(i) respecting the administration of occupational training;

(j) governing the granting of occupational certificates;

(k) in the case where an occupation is designated as a designated occupation, a designated occupation is redesignated, the designation is rescinded or a designated trade is redesignated as a designated occupation,

(i) prescribing a program of transition governing

(A) the designation, redesignation or rescinding of the designation, and

(B) the application of this Act with respect to

(1) trainees, apprentices and holders of trade or occupational certificates, and

(II) training programs, apprenticeship programs, student work training programs or work experience programs,

as the case may be, during the period of transition;

(ii) prescribing provisional requirements governing

(A) apprentices, trainees and holders of trade or occupational certificates, and

(B) training programs, apprenticeship programs, student work training programs or work experience programs,

as the case may be, during the period of transition.

(2) The Board, with the approval of the Minister, may make regulations

(a) prescribing the tasks and activities that come within a designated occupation;

(b) governing the registration, approval or other recognition by the Board of training programs, work experience programs and student work training programs;

(c) governing the registration of trainees in training programs or work experience programs;

(d) respecting the criteria for occupational training;

(e) governing the training to be given in respect of a designated occupation;

(f) respecting eligibility requirements of persons who may be trained and their employers;

(g) providing for the recognition of programs of training;

(h) governing examinations;

(i) prescribing standards of achievement;

(j) governing, in respect of a designated occupation, the recognition by the Board of training or courses given or accepted by or qualifications accepted by

(i) persons or organizations, other than the Minister or the Board, or

(ii) by another jurisdiction;

(k) respecting, with respect to a designated occupation, whether training or courses given or accepted by or qualifications accepted by

(i) persons or organizations, other than the Minister or the Board, or

(ii) by another jurisdiction,

are the equivalent to training, courses or qualifications acceptable to or recognized by the Minister or the Board;

(1) providing, subject to any conditions that the Board may impose, that a document that

(i) is issued in another jurisdiction pursuant to legislation that is similar to this Act, and

(ii) if issued under this Act would be an occupational certificate granted in a designated occupation,

shall be recognized as an occupational certificate issued under this Act in the designated occupation.

PART 3

APPEALS

Right to appeal

35 Where

- (a) a person's trade or occupational certificate is cancelled or suspended,
- (b) a person is refused an exemption,
- (c) a person's exemption is removed,
- (d) there is a refusal to register a person's contract of apprenticeship, or
- (e) the registration of a person's contract of apprenticeship is cancelled,

that person may appeal the matter to an appeal board.

Commencement of appeal

36 A person who has a right of appeal may commence an appeal by serving on the Minister, or a person designated by the Minister, a notice of appeal within 30 days from the day that the person receives written notification of

- (a) the cancellation or suspension of the trade or occupational certificate,
- (b) the refusal to grant an exemption,
- (c) the removal of an exemption,
- (d) the refusal to register a contract of apprenticeship, or

- (e) the cancellation of the registration of the contract of apprenticeship.

Appeal board

37(1) For the purposes of hearing an appeal, the Minister shall, within 30 days from the day of being served with a notice of appeal, appoint an appeal board consisting of

- (a) a person designated by the Minister as the presiding officer of the appeal board, and

- (b) not less than 2 or more than 4 other persons.

(2) A majority of the persons appointed to an appeal board must be persons who, in the opinion of the Minister, are associated with and are knowledgeable about the designated trade or designated occupation in respect of which the appeal is being brought.

(3) Persons, other than employees of the Government, who are members of an appeal board shall be paid, at a rate prescribed by the Minister,

- (a) remuneration for performing their duties as members of an appeal board, and

- (b) travelling and living expenses necessarily incurred in the performance of their duties as members of an appeal board.

Rules governing appeals

38 For the purposes of an appeal the following applies:

- (a) a notice of appeal shall set forth

- (i) the particulars of the matter being appealed, and

- (ii) the name and address of the parties to the appeal;

- (b) written notice of the time and place of the appeal shall be sent by or on behalf of the appeal board

- (i) to the parties to the appeal, and

- (ii) to the Minister;

- (c) an appeal shall be heard and a decision made within 60 days from the day that the Minister appointed the appeal board;

- (d) the granting and duration of an adjournment is in the sole discretion of the appeal board;

- (e) the time limit prescribed in clause (c) does not run during a period of adjournment;

- (f) a period of an adjournment shall not exceed 45 days;

(g) the presiding officer and the other members of an appeal board have the same power as is vested in the Court of Queen's Bench for the trial of civil actions

(i) to summon and enforce the attendance of witnesses,

(ii) to compel witnesses to give evidence on oath or otherwise, and

(iii) to compel witnesses to produce any record, object or thing that relates to the matter being heard;

(h) the parties to an appeal have a right to attend all hearings held in respect of the appeal;

(i) the appeal board shall receive any evidence that it considers relevant to the matter being heard;

(j) a person appearing before an appeal board may be represented by legal counsel;

(k) the parties appearing before an appeal board shall be given adequate opportunity to make representations, present evidence and cross-examine witnesses, if any;

(l) an appeal board may take evidence under oath;

(m) any member of an appeal board may administer oaths for the purpose of taking evidence;

(n) the rules of evidence applicable to judicial proceedings do not apply;

(o) all oral evidence received shall be taken down in writing or recorded by electronic means;

(p) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding;

(q) if a party to an appeal fails to appear for the hearing within one hour from the time set forth in the notice given under clause (b), the appeal may be dismissed or the hearing conducted and determined in that person's absence as the appeal board considers proper in the circumstances;

(r) at any time after a person applies to have an appeal, an appeal board may make any interim order that it considers advisable in the circumstances pending the determination of the appeal;

(s) a decision of the majority of the members of the appeal board is the decision of the appeal board and if there is not a majority, the decision of the presiding officer of the appeal board is the decision of the appeal board;

(t) any member of the appeal board who does not concur with the decision, or the reasons for the decision, of the appeal board may render a minority report respecting the appeal;

(u) the appeal board may subject to any directions by the Minister publish its decisions in any manner that it considers appropriate;

(v) notwithstanding clauses (b), (h) and (k), with the consent of all the parties to an appeal, the consideration of the appeal may be conducted without a hearing being held;

(w) where an appeal is conducted under clause (v),

(i) all matters concerning the appeal may be submitted in writing, or as otherwise directed by the appeal board, to the appeal board, and

(ii) the process under which the appeal is considered and determined by the appeal board is deemed to be a hearing;

(x) notwithstanding clause (c), if a matter is conducted under clause (v), the decision of the appeal board shall be made within 30 days from the day that the parties to the appeal consented to the matter being conducted under clause (v);

(y) an appeal board does not have the authority to order that a regulation made under Part 2 be repealed, amended or otherwise varied;

(z) the provisions of the Alberta Rules of Court relating to the payment of conduct money or witness fees apply to matters heard under this Act.

Decision of appeal board

39(1) An appeal board that hears an appeal may, by order, do one or more of the following:

(a) dismiss the appeal;

(b) allow the appeal and direct

(i) that the trade or occupational certificate, as the case may be, be reinstated,

(ii) that the exemption be granted,

(iii) that the exemption be reinstated,

(iv) that the contract of apprenticeship be registered, or

(v) that a contract of apprenticeship be re-registered;

(c) direct that a cancellation be replaced by a suspension;

(d) vary the decision that led to

(i) the trade or occupational certificate being cancelled or suspended,

(ii) the exemption being refused or removed,

(iii) the contract of apprenticeship not being registered, or

(iv) the registration of the contract of apprenticeship being cancelled;

(e) prescribe terms and conditions to which its order is subject;

(f) award costs.

(2) The appeal board shall in writing notify the parties to the appeal and the Minister of the appeal board's decision.

Advice of Court

40 At any stage of any proceeding before an appeal board, the appeal board may state in the form of a special case to the Court of Queen's Bench for the opinion of the Court any question of law arising in the course of the proceedings.

Appeal to Court

41(1) A person whose appeal is heard by an appeal board may appeal on a question of law the decision of the appeal board to the Court of Queen's Bench.

(2) A person may commence an appeal under this section within 30 days from the day that the person received written notification of the appeal board's decision by filing an originating notice with the Court.

(3) In determining the appeal the Court may, in addition to any other power that it may exercise, make any order that an appeal board may make under this Part.

PART 4

ENFORCEMENT OF ACT, REGULATIONS AND ORDERS

Inspections

42(1) For the purposes of ensuring that this Act is being complied with, an officer may at any reasonable time enter any premises of an employer, or a person providing training or instruction or at which work is being performed and carry out an inspection.

(2) In carrying out an inspection an officer may do one or more of the following:

(a) inspect

(i) those premises, and

(ii) any record, object or thing relating to payroll, job classification, performance of work, qualifications or the instruction or training of persons;

(b) make copies or take photographs of any record, object or thing referred to in clause (a)(ii) or remove them for the purpose of making copies;

(c) make inquiries of any person with respect to

(i) any record, object or thing referred to in clause (a)(ii), or

(ii) the employment, qualifications, training or instruction of persons.

(3) Notwithstanding subsection (2), an officer shall not enter a private residence under subsection (2) without the permission of a resident of that residence.

(4) Where an officer removes any record, object or thing under subsection (2)(b), the officer shall

(a) give to the person from whom the items were taken a receipt for the items, and

(b) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.

Hindering officer

43(1) A person shall not hinder, molest or interfere with an officer in the carrying out of any duty that the officer is empowered to do under section 42.

(2) If an officer

(a) is refused entry into premises that the officer is authorized to inspect under section 42,

(b) is not given consent to enter a private residence,

(c) has reasonable grounds to believe that

(i) permission will be refused to enter premises that the officer is authorized to inspect, or

(ii) consent will not be given to enter a private residence,

or

(d) is impeded or has reasonable grounds to believe that the carrying out of an inspection or examination of any premises, record, document or thing will be impeded,

the officer may apply to the Court of Queen's Bench for an order granting the relief referred to in subsection (6).

(3) An application under this section shall be by way of an originating notice.

(4) On an originating notice being filed with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting such relief as the Court considers appropriate pending the determination of the application.

(5) An interim order under subsection (4) may be made ex parte if the Court considers it appropriate in the circumstances.

(6) On hearing an application the Court may do one or more of the following:

(a) authorize the officer to enter the premises or private residence and carry out the inspection under section 42;

(b) direct any occupant to assist the officer in any manner as the Court prescribes;

(c) restrain any person from impeding the officer from entering the premises or private residence or from carrying out the officer's duties;

(d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;

(e) award costs.

Compliance order

44 If an officer is of the opinion that a person is not complying with this Act, the officer may by written order direct that person to comply with this Act

(a) within the time, and

(b) in accordance with any directions,

set out in the order.

Court order

45(1) If

(a) an officer is of the opinion that a person is not complying with

- (i) this Act,
- (ii) an order given under section 44, or
- (iii) an order given by an appeal board under Part 3,

or

(b) a party to an appeal is of the opinion that a person is not complying with an order of the appeal board,

the officer or the party to the appeal, as the case may be, may apply to the Court of Queen's Bench for an order granting the relief referred to in subsection (5).

(2) An application under this section shall be by way of an originating notice.

(3) On an originating notice being filed with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting such relief as the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(5) On hearing an application the Court may do one or more of the following:

- (a) direct the person to comply with this Act or the order, as the case may be;
- (b) direct a person to cease carrying out any action that in the opinion of the Court does not comply with this Act or the order, as the case may be;
- (c) give those directions that it considers necessary in order to ensure compliance with this Act or the order, as the case may be;
- (d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) award costs.

Cancellation of certificate, etc.

46(1) The Minister may cancel or suspend the registration of a person's contract of apprenticeship or a person's trade or occupational certificate if the Minister is satisfied that the contract or the certificate

- (a) has been improperly altered in any manner,
- (b) has been obtained in a fraudulent manner or by means of fraud,
or

(c) has been used for any purpose by a person other than the person who is a party to the contract or to whom the certificate was issued.

(2) The Minister may, on the recommendation of the Board,

(a) cancel the registration of a person's contract of apprenticeship or cancel or suspend a person's trade certificate in a designated trade if, in the opinion of the Board, the person has not or is not maintaining an acceptable standard of quality or skill in the practice of the designated trade, or

(b) cancel or suspend a person's occupational certificate in a designated occupation if, in the opinion of the Board, the person has not or is not maintaining an acceptable standard of quality or skill in the practice of the designated occupation.

(3) Where the registration of a person's contract of apprenticeship is cancelled or suspended, that person, during the period of time that the registration is cancelled or suspended, is not an apprentice in the designated trade for which the contract of apprenticeship was registered.

(4) Where a person's trade certificate is cancelled or suspended, that person, during the period of time that the trade certificate is cancelled or suspended, does not hold a trade certificate in the designated trade for which the trade certificate was granted.

(5) Where a person's occupational certificate is cancelled or suspended, that person, during the period of time that the occupational certificate is cancelled or suspended, does not hold an occupational certificate in the designated occupation for which the occupational certificate was granted.

Offence

47 A person who contravenes this Act is guilty of an offence.

PART 5

TRANSITIONAL AND COMMENCEMENT

Definition

48 *In this Part, "former Act" means the Manpower Development Act.*

Transitional re Boards, committees and certificates

49(1) *The members of the Alberta Apprenticeship and Trade Certification Board under the former Act continue as the members of the Alberta Industry Training and Certification Board for the purposes of this Act until they are replaced or reappointed under this Act.*

(2) *The members of the provincial apprenticeship committees under the former Act continue as the members of the provincial trade committees for the purposes of this Act until they are replaced or reappointed under this Act.*

(3) *The members of the local apprenticeship committees under the former Act continue as the members of the local trade committees for the purposes of this Act until they are replaced or reappointed under this Act.*

(4) *A contract of apprenticeship entered into or carried on under the former Act and that is in effect immediately before the coming into force of this Act is a contract of apprenticeship under this Act.*

(5) *A Certificate of Completion of Apprenticeship, a Certificate of Qualification or a Certificate of Proficiency that was issued under the former Act and that is in effect immediately before the coming into force of this Act remains in effect under this Act and is deemed to be a trade certificate issued under this Act.*

Transitional re trades designated under former Act

50(1) *A trade that is a designated trade under Part 3, Division 2 of the former Act immediately before the coming into force of this Act is deemed to have been designated as an optional certification trade under section 26 of this Act.*

(2) *A trade that is a designated trade under Part 3, Division 3 of the former Act immediately before the coming into force of this Act is deemed to have been designated as a compulsory certification trade under section 25 of this Act.*

Transitional re compulsory apprenticeship trade

51(1) *Notwithstanding section 50, a trade that is a designated trade under Part 3, Divisions 1 and 2 or Divisions 1 and 3 of the former Act immediately before the coming into force of this Act is deemed to have been designated as a compulsory apprenticeship trade under this Act.*

(2) *Where pursuant to subsection (1) a trade is designated as a compulsory apprenticeship trade, that designation, unless sooner rescinded, expires 5 years after the coming into force of this section.*

(3) *Notwithstanding subsection (2), if before the expiration of a designation under this section, a regulation is made under section 28 establishing a program of transition under which the compulsory apprenticeship trade is to be redesignated as another designated trade or the designation is to be rescinded, the designation of that trade as a compulsory apprenticeship trade shall remain in effect until the transition is completed in accordance with the program of transition.*

(4) *A person may, subject to the regulations, be granted a trade certificate in a compulsory apprenticeship trade,*

(a) by successfully completing the apprenticeship program in the trade, or

(b) by

(i) completing, in the opinion of the Board, a sufficient number of years of acceptable work experience in the trade so as to be proficient in the trade, and

(ii) successfully completing, to the satisfaction of the Board, one or more examinations in respect of the trade or meeting any other requirements that may be established or approved by the Board.

(5) A person shall not work in a compulsory apprenticeship trade unless that person

(a) holds a trade certificate in the trade,

(b) has filed an application under this Act to participate in the apprenticeship program and that application is subsisting,

(c) is an apprentice in the apprenticeship program,

(d) is a student in a student work training program,

(e) is granted an exemption under section 20 from the requirements of this section, or

(f) is performing a task or work that is exempted under section 20.

(6) Notwithstanding subsection (5), a person who

(a) is not an apprentice in a compulsory apprenticeship trade,

(b) does not hold a trade certificate in a compulsory apprenticeship trade, or

(c) is otherwise prohibited under subsection (5) from performing work in a compulsory apprenticeship trade,

may perform work in a compulsory apprenticeship trade if that person has, in the opinion of the Board, completed a sufficient number of years of acceptable work experience in the trade so as to be proficient in the trade.

(7) Where a person is prohibited under subsection (5) from working in a compulsory apprenticeship trade, that person may, notwithstanding subsection (5), work in that compulsory apprenticeship trade

(a) if

(i) the work that the person is to perform is a task for which training is provided in another designated trade, and

(ii) the person who is to perform the task

(A) holds a trade certificate in that other designated trade, or

(B) is an apprentice or trainee in that other designated trade and has received training with respect to that task,

(b) if the work

(i) is carried out by the person on property that the person owns or over which the person has possession or control, and

(ii) is not for business or commercial purposes,

or

(c) if the work is carried out in respect of bona fide farming operations and the person carrying out the work is the farmer or another person engaged in those farming operations.

(8) A person shall not purport to

(a) be an apprentice in a compulsory apprenticeship trade unless that person is an apprentice in that trade,

(b) hold a trade certificate in a compulsory apprenticeship trade unless that person holds a trade certificate in that trade, or

(c) be otherwise permitted to work in a compulsory apprenticeship trade unless that person is otherwise permitted to work in that trade under this Act.

(9) An employer shall not employ a person to perform work in a compulsory apprenticeship trade if the employer knows, or would reasonably be expected to know, that the person who is to perform that work is prohibited under this Act from performing the work in that trade.

(10) Any reference in this Act to Part 2 is deemed to include a reference to this section.

Consequential amendments

52(1) The Legislative Assembly Act is amended in Part 3 of the Schedule by repealing the following:

*Alberta Apprenticeship and Trade Certification Board
under the Manpower Development Act*

(2) The Licensing of Trades and Businesses Act is amended in section 2(b) by striking out "Manpower Development Act" and substituting "Industry Training Act".

(3) The Professional and Occupational Associations Registration Act is amended in section 5 by repealing clause (b) and substituting the following:

(b) a trade or occupation designated or eligible to be designated under the Industry Training Act.

(4) *The Technical Institutes Act is amended in section 11(1)(b) by striking out "designated pursuant to the Manpower Development Act" and substituting "designated pursuant to the Industry Training Act".*

Repeal

53 *The following Acts are repealed:*

- (a) the Apprenticeship, Training and Certification Act;*
- (b) the Manpower Development Act.*

APPENDIX "B"

WHAT WOULD HAPPEN

- TO ME -

UNDER THE PROPOSED
LEGISLATION?

I am an apprentice -

Contracts of apprenticeship in effect on the date proposed legislation came into force would CONTINUE IN EFFECT under the proposed legislation.

I am a journeyman - I have a Certificate of Qualification (or a Certificate of Proficiency).

Certificates of Qualification and Certificates of Proficiency under the Manpower Development Act would CONTINUE IN EFFECT under the proposed legislation.

I am a journeyman but I do not have a trade certificate -

Assuming you had the number of hours or years of experience prescribed by the trade regulation for your trade, you would be able to continue to work and would be eligible to write an examination for a trade certificate.

WHAT WOULD HAPPEN

- TO MY TRADE -

UNDER THE PROPOSED LEGISLATION?

Should the proposed legislation come into effect, with the possible exception of the name of the trade certificate, there would be no immediate change to the practices and procedures in any trade designated under the Manpower Development Act.

One of the first changes might be to the name of the trade certificate itself. The name of the trade certificate is open for discussion.

The proposed legislation would move the designation of every trade under the Manpower Development Act to a designation under the proposed legislation which would allow the current system of apprenticeship and certification to continue without change or interruption (see page 38 of the Discussion Paper).

A five year transitional provision for those trades with an apprenticeship program would provide time for Local and Provincial Trade Committees in those trades to make recommendations as to which category of designation under the proposed legislation would be most appropriate.

The following three pages show where the proposed legislation would move the designation of each individual trade and the proposed process for redesignation.

1

Plasterer	(no transition)	Optional
Projectionist	(no transition)	Certification Trade
Tool and Die Maker	(no transition)	

Compulsory
Apprenticeship
Trades

Future designation of each trade to be determined in accordance with criteria established by regulation. A proposed process is shown on page (v).

Compulsory
Certification Trade

OR

Optional
Certification Trade

OR

Designated Occupation

Transitional Provision
5 years

Auto Body Mechanic _____)
 Barber _____)
 Beautician _____)
 Crane and Hoisting
 Equipment Operator _____)
 Electrician _____)
 Electronic Technician _____)
 Gasfitter _____)
 Heavy Duty Mechanic _____)
 Motor Mechanic _____)
 Motorcycle Mechanic _____)
 Plumber _____)
 Recreation Vehicle
 Mechanic _____)
 Refrigeration and Air
 Conditioning Mechanic _____)
 Sheet Metal Worker _____)
 Steamfitter-Pipefitter _____)
 Welder _____)

Compulsory
Apprenticeship
Trades

) Future designation of
) each trade to be deter-
) mined in accordance with
) criteria established by
) regulation. A proposed
) process is shown on page
) (v).

Compulsory
Certification Trade

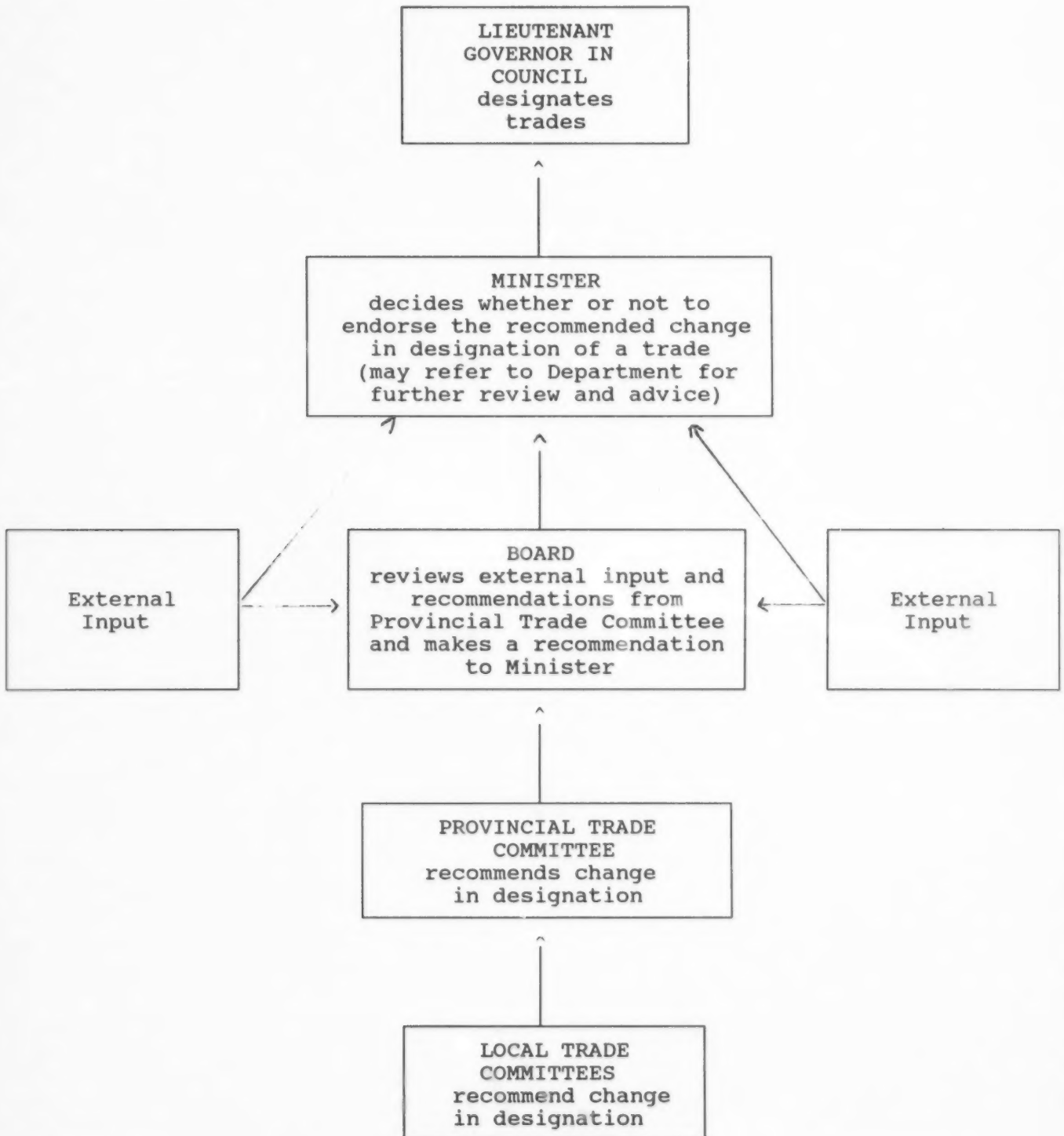
OR

Optional
Certification Trade

OR

Designated
Occupation

**PROPOSED PROCESS FOR THE REDESIGNATION
OF COMPULSORY APPRENTICESHIP TRADES**



WHAT WOULD HAPPEN
- TO MY BUSINESS -
UNDER THE PROPOSED
LEGISLATION?

Should the proposed legislation come into effect, there would be no immediate change to the practices and procedures in any trade designated under the Manpower Development Act.

In those trades which are designated for apprenticeship, participation in apprenticeship would continue to be compulsory. Contracts of apprenticeship in effect on the date the proposed legislation came into force would CONTINUE IN EFFECT under the proposed legislation.

Those employers who do not employ persons with trade certificates or apprentices eventually could be involved in training employees in designated occupations. Such training would not be compulsory but would be encouraged to the benefit of both the employer and employee.

WHAT WOULD HAPPEN

- TO APPRENTICESHIP -

UNDER THE PROPOSED
LEGISLATION?

The proposed Alberta apprenticeship program, which is the same as the existing program, differs from other types of training in that

- it exists only in designated trades,
- it applies only to apprentices who undergo supervised work experience and classroom technical training, and
- it includes a relationship between the apprentice and the apprentice's employer governed by a contract of apprenticeship registered under legislation.

Under the existing legislation, participation in apprenticeship is compulsory.

Optional
Apprenticeship

Under the proposed legislation, participation in an apprenticeship program in a trade where a trade certificate is not required to work would be optional.

Compulsory
Apprenticeship

Under the proposed legislation, participation in an apprenticeship program in a trade where a trade certificate is required to work would be compulsory, provided there was an apprenticeship program in place.

WHAT WOULD HAPPEN

- TO THE
APPRENTICESHIP
BOARD -

UNDER THE PROPOSED
LEGISLATION?

The members of the existing Alberta Apprenticeship and Trade Certification Board would continue as members of the proposed new Alberta Industry Training and Certification Board until they were replaced or reappointed under the proposed legislation.

The proposed Board would have a more significant role in the training and certification of Alberta's skilled work force.

WHAT WOULD HAPPEN

- TO LOCAL AND
PROVINCIAL
APPRENTICESHIP
COMMITTEES -

UNDER THE PROPOSED
LEGISLATION?

The names of the Local Apprenticeship Committees and Provincial Apprenticeship Committees would be changed to Local Trade Committees and Provincial Trade Committees to reflect the fact that not all trades have apprenticeship programs.

The existing powers and duties of these Committees would be enhanced in a manner consistent with the additional responsibilities proposed for the Board.

The relationship among the Committees, the Board and the Minister would be clarified.

Industry (employers and workers), through its representation on the Committees, would have a significant role in the training and certification of Alberta's skilled work force.